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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/050,596	01/15/2002	Lawrence J. Putz	1801	6598

24264 7590 02/06/2003

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EXAMINER

DOUGLAS, LISA ANN

ART UNIT

PAPER NUMBER

3752

DATE MAILED: 02/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/050,596

Applicant(s)

PUTZ, LAWRENCE J.

Examiner

Lisa A. Douglas

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 4/29/03.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) 31-37 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12-23 is/are allowed.
- 6) ☒ Claim(s) 1,2,4-11,24 and 26-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-38 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Election/Restrictions

1. Claims 31-37 withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected method, there being no allowable generic or linking claim. Election was made **without** traverse in telephone conversation with Tim Martin on February 4, 2003.

Specification

2. The disclosure is objected to because of the following informalities: on page 1, line 4 and page 3, line 20 the status of the application needs to be updated.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 4, 5, 10, and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Harris.

Harris shows all of the basic device including a piece of jewelry having a securement member 24 (i.e. chain), setting 10 and 11, porous material 12 with a varied thickness, and bezel.

5. Claims 1, 4, 5, and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Stults.

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Stults shows all of the basic device including a piece of jewelry having a securement member prior to 42, setting 12, porous material 50, bezel, and stanchion 72.

6. Claims 1, 2, 4, 5, 10, 24, 26, and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Eisenbraun.

Eisenbraun shows all of the basic device including a securement member unnumbered clip, setting 18, porous material 30, stanchions adjacent element 32 and bezel. The device is considered to be a piece of jewelry since it can contain a decorative cover and is capable of be attached to clothing.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harris.

Harris shows all of the basic device except for the shape of the porous material being spherical and the material being a ceramic that contains a sintered aluminum oxide having a particle size of between 4-7 micrometers. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Harris device to have a spherical shape since it has been

held that discovering the optimum shape would depend on the surrounding housing that is employed and to have the material being a ceramic that contains a sintered aluminum oxide having a particle size of between 4-7 micrometers since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use.

9. Claims 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stults.

Stults shows all of the basic device except for the shape of the porous material being spherical and the material being a ceramic that contains a sintered aluminum oxide having a particle size of between 4-7 micrometers. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Harris device to have a spherical shape since it has been held that discovering the optimum shape would depend on the surrounding housing that is employed and to have the material being a ceramic that contains a sintered aluminum oxide having a particle size of between 4-7 micrometers since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use.

10. Claims 6-9 and 27-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eisenbraun.

Eisenbraun shows all of the basic device except for the shape of the porous material being spherical and the material being a ceramic that contains a sintered aluminum oxide having a particle size of between 4-7 micrometers. It would

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have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Harris device to have a spherical shape since it has been held that discovering the optimum shape would depend on the surrounding housing that is employed and to have the material being a ceramic that contains a sintered aluminum oxide having a particle size of between 4-7 micrometers since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use.

11. Claims 2, 24, 26-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stults in view of Eisenbraun.

Stults shows all of the basic device except for stanchions. Eisenbraun shows another air freshener having stanchions. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Stults device to have stanchions as taught by Eisenbraun to provide rigidity to the overall device.

Allowable Subject Matter

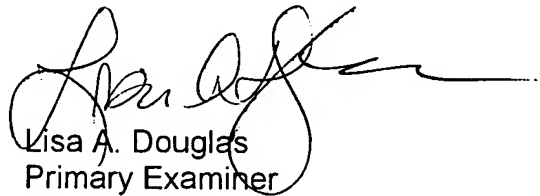
12. Claims 12-23 are allowed.
13. Claims 3 and 25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lisa A. Douglas whose telephone number is (703) 308-0265. The examiner can normally be reached on Mon-Tues.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mar can be reached on (703) 308-2087. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7766 for regular communications and (703) 308-7766 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0861.



Lisa A. Douglas
Primary Examiner
Art Unit 3752

Id
February 4, 2003